

SUPREME COURT OF ARIZONA

In the Matter of)	Arizona Supreme Court
)	No. R-15-0006
RULE 74, RULES OF)	
FAMILY LAW PROCEDURE)	FILED 8/27/2015
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_____)	

ORDER

AMENDING RULE 74, ARIZONA RULES OF FAMILY LAW PROCEDURE

An amended petition having been filed proposing to amend Rule 74, Arizona Rules of Family Law Procedure, and comments having been received, upon consideration,

IT IS ORDERED that Rule 74, Arizona Rules of Family Law Procedure, be amended in accordance with the attachment hereto, effective January 1, 2016.

DATED this 27th day of August, 2015.

SCOTT BALES
Chief Justice

TO:

Rule 28 Distribution

Hon. Janet E Barton

Susan Pickard

Martin Lynch

Annette T Burns

Barry L Brody

Judith M Wolf

Andi J Paus

Aris J Gallios

Keith Berkshire

Terry B Decker

John Scialli

Helen R Davis

Hon. Alyce L Pennington

Hon. Peter B Swann

Diana G Vigil

Vicki Alger

Karen Duckworth

David M Alger

William G Klain

Hon. Sally Schneider Duncan

Julie A Skakoon

Kevin Pickering

Kenneth Scott Baker

Michael J Manola

Shebli Geegieh

Hon. Nanette M. Warner (Ret.)

ATTACHMENT¹

Arizona Rules of Family Law Procedure

Rule 74. Parenting Coordinator

A. Purpose of Parenting Coordination. Parenting coordination is a child-focused alternative dispute resolution process. The overall objective of parenting coordination is to assist parents with implementation, compliance, and timely conflict resolution regarding their parenting plan and legal decision-making orders so as to protect and sustain safe, healthy, and meaningful parent-child relationships.

B. Appointment of a Parenting Coordinator. The court may appoint a third party as a parenting coordinator in proceedings under Title 25, A.R.S., at any time after entry of a legal decision-making or parenting time order only if each parent has agreed to the appointment either by written stipulation or orally on the record in open court.

The stipulation must state:

1. each parent understands how the parenting coordinator bills for services, including the parenting coordinator's hourly rate, and the parents can afford the parenting coordinator's services;
2. the manner in which the parenting coordinator's fees will be allocated between the parents;

¹ Because this rule has been substantially revised, a strikeout version is not provided. This rule replaces the current rule in its entirety.

3. the method by which the parenting coordinator will be selected or the name of the agreed-upon parenting coordinator;
4. the parents agree to the release of documents the parenting coordinator deems necessary to the performance of the parenting coordinator's services;
5. the term of the appointment; and
6. the parents agree to be bound by decisions made by the parenting coordinator that fall within the scope of the parenting coordinator's authority and relate to issues submitted to the parenting coordinator for decision.

Nothing in this rule is intended to prevent parents from requesting, or a court from appointing, parenting coordination assistance through the court's conciliation court services, if available. Parents obtaining parenting coordinator services through the court's conciliation court services must agree to subdivisions 4-6 above.

C. Selection of a Parenting Coordinator. A parenting coordinator appointed by the court must qualify as a parenting coordinator under paragraph D. A person appointed as a parenting coordinator cannot serve in any other function or role in the case, except that each parent and the parenting coordinator may agree that a person who is serving or has already served in a legal, treatment, evaluative, or therapeutic role in the case can be appointed as the parenting coordinator.

D. Persons Who Can Serve as a Parenting Coordinator. The following persons can serve as a parenting coordinator:

1. an attorney who is licensed to practice law in Arizona;

2. a psychiatrist who is licensed to practice medicine or osteopathy in Arizona;
3. a psychologist who is licensed to practice psychology in Arizona;
4. a person who is licensed to practice independently by the Arizona Board of Behavioral Health Examiners;
5. professional staff of a court's conciliation services department; or
6. a person with education, experience, and expertise who is deemed qualified by the court's presiding judge or a designee.

The court can set additional requirements for service as a parenting coordinator.

E. Term of Service. The term of the parenting coordinator will be designated in the order of appointment.

1. **Initial Term.** A parenting coordinator's initial term cannot exceed one year unless each parent and the parenting coordinator agree to a longer term.
2. **Reappointment.** The parenting coordinator cannot be reappointed at the end of the term unless each parent and the parenting coordinator agree to the reappointment in writing or orally on the record in open court. By agreeing to the reappointment, each parent is acknowledging the parent's understanding and acceptance of subdivisions 1-6 in paragraph B, above. The reappointment term cannot exceed one year unless each parent and the parenting coordinator agree to a longer term.
3. **Replacement of the Parenting Coordinator.** Both parents can agree to replace the existing parenting coordinator by stipulating to the replacement in writing or orally on the record in open court. The stipulation that replaces the parenting

coordinator must also contain the stipulations in subdivisions 1-6 in paragraph B, above.-

4. Resignation. The parenting coordinator can resign upon notice to each parent and order of the court.

5. Discharge. Both parents can jointly agree to discharge the parenting coordinator during the term of appointment. If only one parent wishes to discharge the parenting coordinator, that parent must file a motion with the court that establishes good cause for the requested relief. Disagreeing with one or more of the parenting coordinator's decisions does not constitute good cause for discharging the parenting coordinator.

F. Fees.

1. Disclosure of Fees. The parenting coordinator must fully disclose all fees and charges to each parent before services requiring payment can begin. A parenting coordinator cannot increase the parenting coordinator's hourly rate during a term of appointment.

2. Adjustment to Allocation of Fees by Parents. Both parents may agree to a change in the allocation of fees by amending the agreement in writing with the parenting coordinator. Without the parents' agreement, a parenting coordinator cannot reallocate fees based on a change in a parent's financial circumstances.

3. Sanctions and Reallocation of Fees. Where one parent is reasonably believed to be using parenting coordinator services excessively or to harass the other parent, a

parenting coordinator or a parent can recommend, as a sanction, an adjustment to the allocation of the parenting coordinator's fees. Any recommendation must be filed with the court in writing and must explain in detail the reason for the recommended fee reallocation. The recommendation must be provided to each parent or counsel, if represented, if filed by the parenting coordinator, and if filed by a parent, to the parenting coordinator and the other parent or counsel, if represented. The non-recommending parent may file an objection to the recommendation within 20 days after the date the written recommendation is filed. If an objection is filed, the court must hold a hearing before reallocating fees.

G. Confidentiality. Parenting coordination is not a confidential process.

Therefore, the communications between the following are not confidential:

1. each parent and the parenting coordinator;
2. the child and the parenting coordinator;
3. the parenting coordinator and other relevant parties to the parenting coordination process; and
4. the parenting coordinator and the court.

Counsel cannot attend parenting coordinator meetings with their clients unless each parent and the parenting coordinator agree or if ordered by the court. The parenting coordinator can meet with each counsel separately to obtain information relevant to the issue before the parenting coordinator.

H. Scope of Appointment and Authority. The court order appointing the parenting coordinator must specify the scope of the appointment.

1. A parenting coordinator's scope of appointment can include:
 - a. helping the parents address disputed issues, reduce misunderstandings, clarify priorities, explore possibilities for compromise, develop methods of collaboration in parenting, and comply with legal decision-making authority and parenting time orders;
 - b. making decisions regarding implementation, clarification, and minor adjustments to parenting time orders;
 - c. making decisions regarding parenting challenges not specified in the parenting plan that the parents are unable to resolve. By way of example, these challenges can include disagreements about: pick-up and drop-off locations, dates and times; holiday scheduling; discipline; health issues; personal care issues; school and extracurricular activities; choice of schools; and managing problematic behaviors;
 - d. interviewing and requesting documentation from anyone who has relevant information necessary to resolve a matter currently before the parenting coordinator; and
 - e. recommending that the court order the parents or child to participate in ancillary services, to be provided by the court or third parties, including but not limited to physical or psychological examinations or assessments, counseling, and alcohol or drug monitoring and testing.

2. A parenting coordinator must attempt in a timely manner to facilitate agreement on disputed issues between the parents. If the parents are unable to reach agreement, the parenting coordinator will timely decide any disputed issues within the scope of the parenting coordinator's authority.

3. A parenting coordinator cannot make a decision that will:

- a. affect child support, spousal maintenance, or the allocation of property or debt;
- b. change legal decision-making authority; or
- c. substantially change parenting time.

I. Emergency Authority and Procedure. If, based upon the parenting coordinator's personal observation, the parenting coordinator determines that a parent's functioning is impaired and the parent is incapable of fulfilling either the court-ordered legal decision-making or parenting functions, or the parent's conduct will expose the child to an imminent risk of irreparable harm, a parenting coordinator is authorized to file a motion for temporary orders without notice pursuant to Rule 48. The court must accept the motion for filing even though a petition to modify under Rule 91 has not been filed.

J. Report. The parenting coordinator's decision on an issue must be written in a form substantially similar to the Parenting Coordinator's Report in Rule 97 of these rules. The parenting coordinator must:

1. mail or transmit the report to the assigned judge—but not the clerk of the court—not later than five business days after receipt of all information necessary to make a decision; and
2. mail or transmit a copy of the report to each parent or counsel on the same day it is mailed or transmitted to the court.

K. Court Action. The court, upon receipt of the parenting coordinator’s report, must file the report. If the report contains confidential or private information, it must be filed in a manner that prevents the public from accessing the report, pursuant to Rule 13(D) of these rules. Once the report has been filed, the court can do any of the following:

1. adopt the decision as an order of the court;
2. reject the decision and report in whole or in part as outside the scope of the parenting coordinator’s authority and affirm all or part of the current court order; or
3. set a hearing regarding the decision.

The court may use the Order Regarding Parenting Coordinator's Report in Rule 97 of these rules for purposes of this paragraph.

L. Objection. Provided that the parenting coordinator acted within the scope of authority pursuant to this rule and the appointment order, the parenting coordinator’s decision is binding. If a parent believes that the parenting coordinator’s decision exceeds the scope of the parenting coordinator’s authority, the parent may object to the parenting coordinator’s decision by filing a pleading with the court entitled “Objection.” The objection must be filed within 20 days after the date of the filing of the parenting

coordinator's report. The objection must explain in detail the reasons why the parent believes the parenting coordinator exceeded the scope of authority and whether a hearing is requested on the parent's objection.

M. Action on Parent's Objection. If either parent files an objection, any court action will remain in effect pending resolution of the objection.

N. Complaints about Unethical or Unprofessional Conduct by Parenting Coordinators. Complaints about alleged unethical or unprofessional conduct by the parenting coordinator should be submitted to the parenting coordinator's applicable licensing or regulatory board. If the parenting coordinator is not subject to a licensing or regulatory board, the complaint should be brought to the court's attention.

O. Immunity. The parenting coordinator has immunity in accordance with Arizona law as to all acts undertaken pursuant to and consistent with the appointment order of the court.

P. Applicability. No court is required to employ or use parenting coordinators; but in the event the court appoints a parenting coordinator, these rules apply.

Q. Effective date. The rule as it exists on January 1, 2016, applies to any appointment or reappointment of a parenting coordinator that occurs on or after January 1, 2016. All parenting coordinator appointments made prior to January 1, 2016, continue to be governed by the prior version of Rule 74 for the remaining term of that appointment.